OFFICE OF THE OMBUDSMAN

33rd Annual Report

FOR THE PERIOD JANUARY 1, 1999 TO MARCH 31, 2000

NATURAL JUSTICE • ADMINISTRATIVE FAIRNESS • COMPLAINT RESOLUTION

101-01561/

LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

November, 2000

The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 33rd Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 27(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period January 1, 1999 to March 31, 2000.

Respectfully,

G.G. Scott Sutton
Ombudsman

OFFICE OF THE OMBUDSMAN
Province of Alberta

Vision:

The Office of the Ombudsman is the recognized standard of independent review for administrative fairness.

Mission:

The Office of the Ombudsman promotes fairness in public administration within the Government of Alberta.

G.G. SCOTT SUTTON, *Ombudsman*

Message from the Ombudsman 1

Review of Operations 7

Office of the Ombudsman Overview 10

Corporate Structure 10

The Ombudsman 11

Investigative Services 11

Information and Referral Services 13

Legal Services 13

Corporate Services 13

Statement of Operations 14

Statistical Analysis 15

Statistical Commentary 15

Statistical Tables and Graphs

Table 1: Geographic Location of Complaints 17

Table 2: Annual Number of Complaints Received by Year 18

Table 3: Oral Complaints Received January 1, 1999 to March 31, 2000 19

Table 4: Written Complaints Received January 1, 1999 to March 31, 2000 20

Operational Statistics by Departments, Boards and Agencies 22, 23

Investigative Procedures 24

Processing Oral Complaints 24

Processing Written Complaints 25

Investigation of Complaints 27

Process of Investigation 27

Resolution of Complaints 28

Case Summaries 28

I am encouraged with what I see as a genuine effort to depart from the model of a "faceless bureaucracy" by some departments to one that is attempting to treat their clients not only in a fair and equitable manner but also with compassion.

G.G. SCOTT SUTTON, *Ombudsman*

I am pleased to present my second Annual Report - the thirty-third Annual Report of the Alberta Office of the Ombudsman. The timing in tabling my report has changed as the annual reporting period from this time forward will be consistent with the government's fiscal year as opposed to the calendar year. This change was implemented in an effort to congeal future financial and statistical reporting. For this report only, the reporting period is fifteen months and statistical data should be read with that period in mind. In addition to a change in the reporting period, the report format has been slightly modified in an effort to provide a more informative yet reader friendly overview of the activities of the Office of the Ombudsman.

The Office of the Ombudsman conducts impartial investigations for individuals who believe they have been subject to error or administrative unfairness by Alberta government departments, boards, agencies or commissions. For individuals who are outside the Ombudsman's jurisdiction, the Office of the Ombudsman serves as an information resource and referral service. As an officer of the Legislative Assembly, I remain committed to fulfilling this mandate.

MESSAGE FROM THE OMBUDSMAN

The reporting period 1999/2000 has seen a continuance in efforts to promote and enhance the effective operation of the Office of the Ombudsman. Although investigative staffing levels have remained constant, a dedicated intake officer is now in place and this has proven to be an enhancement of initial contact services provided by the Office. Quality of investigations and recommendations remains a high priority and internal quality assurance systems are being continually monitored to ensure effective operational and administrative services.

The past year and several months have seen a marginal increase in the number of complaints investigated. For some departments, the number of clients fluctuates each year and this can, in part, be tied to the health of the economy. This fluctuation impacts the number of complaints received in this office. The number of non-jurisdictional oral complaints continue to increase and this trend supports the need for a continuance of an accessible referral centre such as is being provided by the Office of the Ombudsman. Citizens who have concerns are routinely directed to authorities that can provide assistance not only in matters of provincial jurisdiction but also with federal, municipal and private business concerns.

Promotion of the Office of the Ombudsman also remains a priority. Because individual clients are the basic focus of my investigations, public outreach is necessary to ensure Albertans are aware of the Office and its role. Tracking of how people learn of the Ombudsman is underway, enabling realistic and constructive audience targeting through promotions and presentations. As my investigators and I travel throughout the province, it is readily apparent there is a need to continue in our efforts to ensure Albertans are aware, not only of the services provided by the Office, but also of avenues of accessibility. This accessibility is imperative and various initiatives are being explored and put into practise when deemed feasible.

It is also important staff of the provincial government departments understand the role and function of the Office of the Ombudsman. Last year I reported that I support a non-adversarial and common-sense approach to the resolution of all complaints and this commitment is ongoing and expanding. Through open dialogue and frank discussion with Deputy Ministers and Department heads, constructive and meaningful change has been achieved. For the most part when issues of concern are approached in such a manner, it is clear there is a sincere willingness to right the wrong and provide fair and equitable services to all Albertans. It has also become evident that

some departments have become increasingly sensitized to recommendations emanating from the Ombudsman and are willingly adjusting programs and policies to ensure standards of administrative fairness are followed. Efforts to resolve situations of maladministration by engaging in positive discussion with decision-makers at all levels has met with considerable success both for the client and for the department or agency. This has resulted in shortening of some investigative time lines and expeditious correction of errors identified in policies and procedures.

Trends in Complaints Handled

Last reporting period, I advised of a disturbing trend in the collection of crown debts. This was due to an aggressive program to recover overpaid benefits or other monies considered owing. I am pleased to report much progress has been made and although a number of complaints have been resolved, there remain some outstanding issues to finalize. I will continue in my efforts to ensure all recovery practises are done in an administratively fair manner.

As a result of complaint investigation, my Office has noticed a trend by some departments and agencies towards a reduction of personal accountability for decisions made. Some decision-makers fail to sign correspondence and in some cases, fail to identify the author. Decisions should be signed not only as proof of authenticity but also to disclose the decision-maker's identity so that an affected person may review a decision for bias. There are some departments and agencies that appear to have adopted an administrative model where no specific service provider is responsible for a particular file. When this occurs, a member of the public seeking assistance or clarification is more often than not met with a "faceless bureaucracy" that is unable to respond effectively.

Conversely, there are other departments that have taken the initiative to train their staff to take responsibility for their decisions and to interact with the public in a manner that makes the public feel they are dealing with real people who have an active interest in their affairs. There has been some significant progress by some departments in reviewing their delivery of services so that all Albertans are treated in a manner consistent with fairness and natural justice.

Potential New Responsibilities

As I reported last year, legislation was introduced which would see the jurisdiction of the Ombudsman expanded to meet the provisions of the *Health Professions Act*. Under the terms of this legislation, my Office will

The fundamental issue is that if government wants the "watchdog" of administrative fairness to continue working in the manner it was intended, then legislation must be compatible to the way government is doing business.

provide an independent third party review for clients who have raised their complaints with the professional body but remain dissatisfied with the results. *The Health Professions Act* has received Royal Assent and I have been advised the associated legislative proceedings are being assembled. Once in place, I am prepared to assume these additional investigative duties in the field of health professions.

The proposed *Regulated Forestry Profession Act* and the proposed *Regulated Accountancy Professions Act* are ongoing and will see the involvement of the Ombudsman in the complaints resolution process. The Ombudsman has also been included in the complaints resolution process of Regional Health Authorities and it is evident the role of the Ombudsman will continue to expand. I am pleased to assume new responsibilities asked of the Office and I am confident that a continuation of quality service will be available and provided to all people of Alberta as we move forward into the future.

Legislative Amendments to the Ombudsman Act

In striving to meet the challenge of providing an independent review process for a government which is changing the way it does business, the Ombudsman must keep pace and continue to provide the services expected of it. Frustration is the only word to describe my inability to get much-needed amendments to the *Ombudsman Act* through the Legislature. Privatization and contracting out must not be an impediment for Albertans faced with what they feel are wrongdoings and instances of maladministration. Throughout this process some have viewed the requested amendments as adding further to the power and authority of the Ombudsman. This is not the case. The fundamental issue is that if government wants the "watchdog" of administrative fairness to continue working in the manner it was

intended, then legislation must be compatible to the way government is doing business. I will continue in my efforts to press forward with these amendments.

Travel and Hosting

In the summer of 1999, I attended a joint conference between the Canadian Ombudsman Association and the United States Ombudsman Association in Victoria, B.C. In the spring of 2000, I along with two investigators attended the international Ombudsman Leadership Forum Conference in San Francisco, California. The Alberta Office of the Ombudsman was also host to a number of national and international guests, including Andre Marin, Canadian National Defence Ombudsman; Judy Tutcho, Commissioner of Official Languages, N.W.T.; Professor P. Nikiforos Diamandouros, Ombudsman for Greece; Professor Bertram Bastimpillai, Ombudsman for Sri Lanka and Damon Thomas, Ombudsman for Tasmania. Edmonton remains the home of the International Ombudsman Institute and the Alberta Ombudsman is called upon on occasion to provide assistance for developing Ombudsman Institutions.

In closing, as the second year of my mandate passes, I remain committed and enthused with Ombudsmanship in the Province of Alberta. I view the passing year with a degree of satisfaction knowing that progressive change has been made in my continuing efforts to ensure natural justice and fairness is provided to all who have dealings with departments, agencies and boards of the Alberta provincial government. I am encouraged with what I see as a genuine effort to depart from the model of a "faceless bureaucracy" by some departments to one that is attempting to treat their clients not only in a fair and equitable manner but also with compassion.

As the mandate of the Office of the Ombudsman expands and the responsibilities increase, I am confident of my ability to provide a quality service for all who feel they have been neglected or subjected to maladministration by the Alberta provincial government. I embrace new challenges and will continue to offer a comprehensive, independent third-party review process based on a positive and common-sense approach to all issues.

G.G. SCOTT SUTTON, *Ombudsman*

Investigations and the investigative process are audited on an on-going basis to ensure high standards with consistencies present in every instance.

For 33 years, the Office of the Ombudsman has been responding to complaints of administrative unfairness against the Government of Alberta to ensure all citizens are treated in a consistent and fair manner.

The Office of the Ombudsman will continue to meet the on-going needs of individuals who feel they have been the victim of bureaucratic wrongdoing by pursuing four long term goals.

Goal 1: Promote public awareness of the services offered by the Office of the Ombudsman.

Many people remain unfamiliar with the term "ombudsman" and the role of the Ombudsman is not readily recognized or understood. Yet, an Ombudsman performs the very public role of investigating complaints against the government with the majority of these complaints coming from the general public. Thus, there is a continuing need to assist people in understanding the Ombudsman's role is to conduct investigations into grievances against the provincial government.

During this reporting period, educational outreach initiatives incorporated a variety of approaches. Community educational forums were held throughout the province; advertising was expanded to an increasing number of community directories; presentations were made to select minority groups who interact with the government on a regular basis and each Alberta Member of the Legislative Assembly's (MLA) constituency office was

contacted to distribute educational material and review the services of the Ombudsman's office. In addition, a number of one-on-one learning opportunities occurred with interested members of the public.

Instructive assistance and a broader explanation of the role of the Ombudsman were offered to professionals in the Health, Accounting and Forestry fields. The legislation governing these professions is establishing the Ombudsman's Office as the third party review mechanism for complaints not resolved, to the client's satisfaction, through the appeal process within the professional association.

Goal 2: Improve the overall administrative and investigative processes to enhance the delivery of services in an efficient and effective manner.

Technology played a significant role in the enhancement of service delivery. Computer work stations, servers and communication devices were replaced and upgraded to improve efficiency and accessibility of investigative information. A limited number of laptop computers were obtained for use by investigators in the field. Video conferencing was established between Edmonton and Calgary to facilitate case conferencing among staff in the two offices. Data encryption software was installed to enable the safe electronic transfer of sensitive internal investigative documents.

Operationally, the administrative support staff in Edmonton was centralized in one common area. Some aspects of the Office were redesigned to consistently support the professional intent of the Ombudsman's mandate. Additional structural changes occurred in the Calgary office to increase the physical security of all investigative material.

Cross government initiatives were pursued with a view to coordinating services in order to reduce operational costs. In conjunction with other government Legislative Offices, options for "shared services" were explored through a joint Legislative Offices' task force. Biannual meetings were established among staff of the Legislative Offices to share information and discuss common issues.

Goal 3: Ensure quality assurance processes are maintained to support superior investigative practices.

The investigative process has been changing dramatically over the past two years. Investigators are now charged with the sole duty of performing investigations. All non-investigative duties, previously handled by investigators, have been centralized and reassigned to other staff. This includes the daily telephone intake duties. A newly created Intake Officer position was established in order to handle all intake duties and provide complete and consistent information to all callers and walk-ins.

A number of new polices and procedures were instituted to ensure investigations meet high standards and are conducted in a thorough, consistent and timely manner. These measures include: the development of professional expectations for all investigative staff; the standardization of the investigative reporting format and the electronic storage of historical

and reference information intricately linked to investigations.

Investigations and the investigative process are audited on an on-going basis to ensure high standards with consistencies present in every instance. Weekly investigator meetings, facilitated through video conferencing, allow investigative staff in both offices to discuss investigations and common issues, identify emerging trends or problems and maintain a consistent level of service. Regular reviews are conducted of each investigator's caseload. Ultimately, the Ombudsman performs the final examination to ensure each and every investigation complies with the established standards.

One of the primary tools utilized to monitor investigations is the Case Tracking System database. The new system, implemented in January 1999, was purchased from the British Columbia Office of the Ombudsman. The reporting capability of the Case Tracking System provides broad audit capabilities on all aspects of historical and current investigations. The extensive statistical information available from the Case Tracking System assists in short and long term operational planning.

Goal 4: Prepare and position resources to accommodate growth and expansion of jurisdiction.

As mentioned in the Ombudsman's comments, the legislative changes to the *Ombudsman Act* have been progressing much slower than anticipated. As such, the Office is unable to undertake any investigations which would fall under proposed extensions of the Ombudsman's authority until the amendments to the *Ombudsman Act* are enacted.

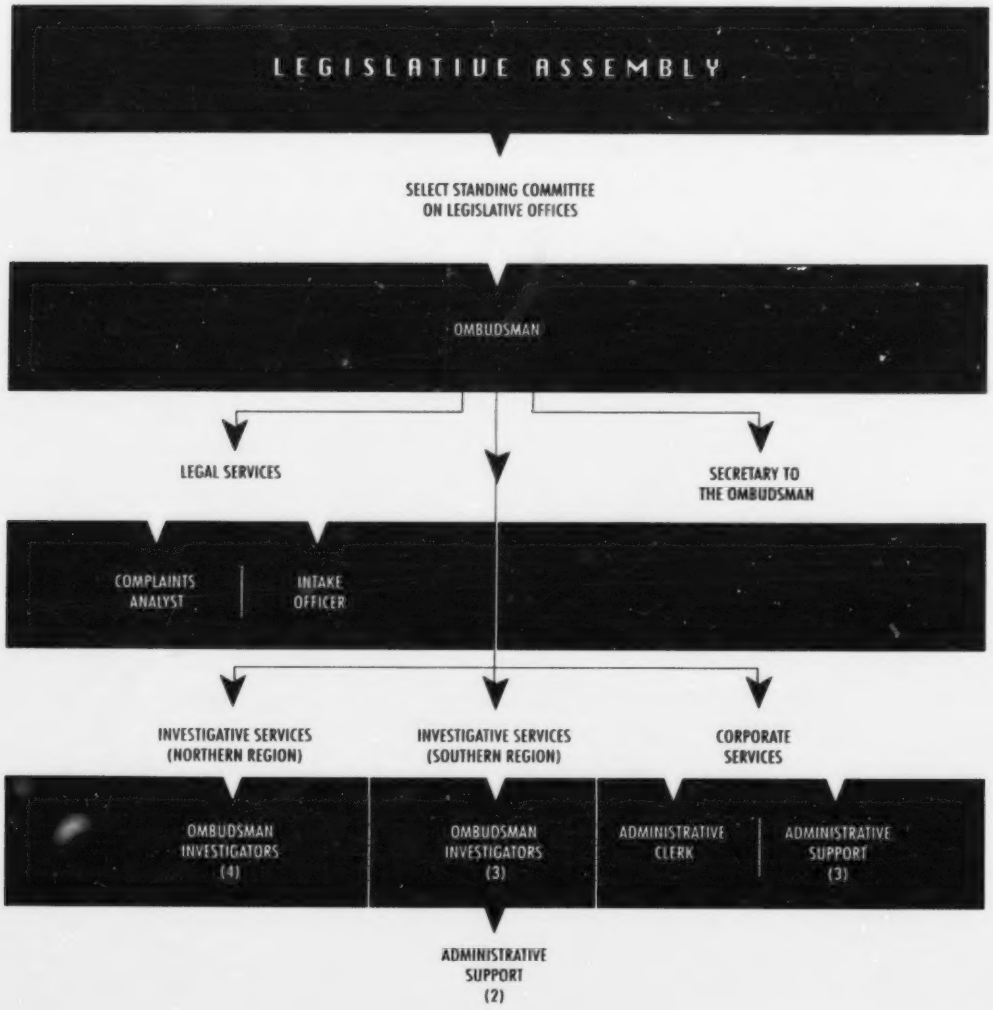
The second piece of legislation which impacts this Office is the *Health Professions Act.* Under the terms of this legislation, the Office is the designated third party review mechanism for citizens who have complaints about one of the 28 health professional bodies specified in the legislation. Examples of health professions include dentists, nurses, doctors, psychologists and physical therapists.

The Office consulted with the Ministry of Health to provide input into the *Health Professions Act.* Similarly, assistance was supplied to various health professions in the development of internal complaint handling processes. The Office continues to research and develop the resource lists and contacts for client referrals with particular emphasis on health professions.

In terms of staff training and readiness, internal learning has continued throughout the period. Active steps have been taken to ensure staff acquires the necessary knowledge and skills relevant to health-related issues in the health field. Staff are confident they have reached a level of preparedness to make the transition into these new areas of investigation as seamless as possible. At this time however, the legislation has not progressed to the point where this Office can assume an active investigative role. This Office is currently prepared to commence its additional duties once the legislative process is complete.

OFFICE OF THE OMBUDSMAN

CORPORATE STRUCTURE



THE OMBUDSMAN

By investigating complaints independently and impartially, the Ombudsman can bring to light instances of administrative errors or inconsistencies that may otherwise pass unnoticed.

In 1967, the Province of Alberta enacted legislation to establish the Office of the Ombudsman. Alberta was the first jurisdiction in the Western Hemisphere to establish an Ombudsman's office.

The Ombudsman is an Officer of the Legislature. Communication between the Office of the Ombudsman and the Legislative Assembly occurs through the Select Standing Committee on Legislative Offices. Established in 1978, this Committee is comprised of Members of the Legislative Assembly with a cross representation of the various political parties in the Assembly. The Ombudsman meets with the Select Standing Committee as needed throughout the year.

INVESTIGATIVE SERVICES

The primary purpose of the Ombudsman is to provide impartial investigations on behalf of individuals who feel unfairly treated through the actions of government. The mandate, as set out in section 11(1) of the *Ombudsman Act* reads:

> *It is the function and duty of the Ombudsman to investigate any decision or*

recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

The *Ombudsman Act* authorizes the Ombudsman to investigate complaints relating to the administrative activities of the Alberta government. Providing the client has first attempted to resolve the problem through all available avenues of appeal, the Ombudsman can investigate complaints against the administrative activities of any government ministry, board or agency. Over the years, the definition of agency has changed so that the Ombudsman is now empowered to investigate the administrative actions of any body, all or a majority of whose members are appointed by legislation, or by order of the Lieutenant Governor in Council (the Cabinet), a Minister of the Crown, or by any combination of these. In addition, the Ombudsman has the authority to investigate the administration of any corporation wholly owned by the Government of Alberta.

The Ombudsman conducts each investigation in an independent and impartial manner. The Ombudsman is not in the business of dispensing favors but rather safeguarding rights. If a complaint is supported, the Ombudsman will seek recourse. However, if a complaint against the government is not justified, the client is advised accordingly. By investigating complaints independently and impartially, the Ombudsman can bring to light instances of administrative errors or inconsistencies that may otherwise pass unnoticed.

The Ombudsman may decline to investigate a complaint if the complaint is frivolous, not made in good faith, or designed to attack a person rather than to criticize an action. Also, if the matter is more than 12 months old, the Ombudsman may decline to investigate.

Limits to the Ombudsman's authority also exist: the Ombudsman does not have the power to investigate the actions of the Legislature, the courts or government lawyers while acting as solicitors for the Crown.

Investigating complaints about government administrative actions is provided at no cost to the individual requesting the service. Investigators travel throughout the province to

gather information related to complaints and to meet provincial personnel and the citizens lodging complaints. All information gathered during the investigation is treated in a highly confidential manner.

Information and Referral Services

Conducting investigations into complaints about the administrative activities of government is the legislated mandate of the Office. Equally important is the non-legislated function of serving as a clearinghouse for a host of public inquiries.

The administration of services and controls under the provincial government inevitably impacts the lives and affairs of average citizens. Given the size and complexity of bureaucratic structures, citizens frequently do not know who or what department to contact about specific problems. Confusion and frustration can result from their attempts to learn where to have a complaint heard and the appropriate steps to follow.

The Office of the Ombudsman serves as a liaison in these instances by conveying information or referring citizens to the appropriate person, department or other complaint mechanism. Providing this service entails maintaining current contact listings and appeal mechanisms both within and outside government. The need for the Ombudsman's office to fill this gap by serving as an information resource and referral service continues to be voiced by the many citizens who telephone each day requesting assistance.

LEGAL SERVICES

Legal Services performs or directs all necessary legal functions for the Office of the Ombudsman. This includes research, interpretation and legal opinion as it relates to both jurisdictional and investigative issues. Legal Services oversees the intake, control and analysis of all complaints received by the Office of the Ombudsman.

CORPORATE SERVICES

Corporate Services supports the Office's corporate needs by providing business planning, financial management, human resources administration, information technology management, freedom of information and protection of privacy, communication and publication services, records management, accommodation planning, purchasing and administration for the Office.

Statement of Operations

For the Year Ended March 31, 2000

	2000 Budget	2000 Actual	1999 Actual
Expenses			
Salaries, Wages and Employee Benefits	$ 1,246,000	$ 1,092,303	$ 1,022,392
Supplies and Services	341,000	338,902	315,052
	$ 1,587,000	$ 1,431,205	$ 1,337,444
Valuation Adjustments			
Provision for Vacation Pay		11,213	5,869
	$ 1,587,000	$ 1,442,418	$ 1,343,313

STATISTICAL COMMENTARY

Timeliness is an integral part of the quality assurance process; however, it does not take priority over the complete analysis of all relevant facts associated with an investigation.

The following data illustrates the number, nature, distribution and disposition of the caseload handled by the Office of the Ombudsman from January 1, 1999 through March 31, 2000.

The Office of the Ombudsman is realigning its reporting period to be consistent with the government fiscal year. Previous Annual Reports have summarized the activities of the calendar year. Subsequent Annual Reports will cover a one-year period from April 1st to March 31st. However, to convert to the new reporting cycle, this report spans a 15-month period – from January 1, 1999 to March 31, 2000. Thus, for comparative purposes, it is important to keep in mind the current statistics reflect 15 months while all previously cited statistics reflect a 12-month period. This anomaly will be unique to this particular report.

This reporting period has also been a period of transition in terms of how we record and track investigations. Effective January 1, 1999, new case tracking software was implemented. The new program is flexible, provides extensive investigative data, and the information is readily accessible. From a case management perspective, investigative details and results are easily updated, monitored and reviewed.

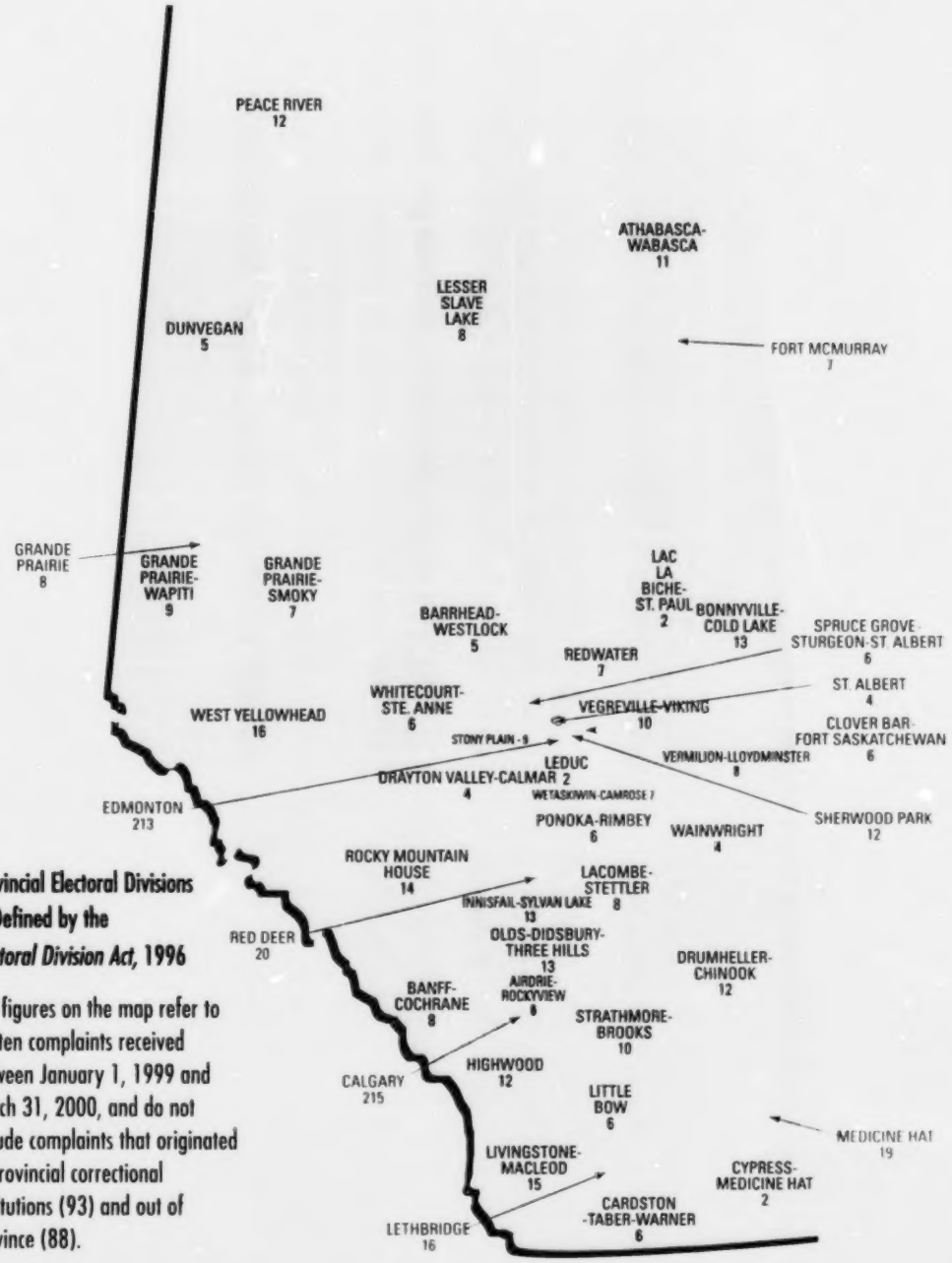
Year after year, statistics confirm the continuing need for this Office to provide a public information and referral

service to deal effectively with all types of complaints. During this reporting period, 59 percent of the oral complaints were about matters falling outside the Ombudsman's jurisdiction. While it is heartening to confirm that more and more Albertans are aware of the Ombudsman's role to investigate complaints, the continual need for public information about complaint mechanisms does not diminish.

A supported case means an administrative error, on the part of a government department, board or agency, was identified. If the case involved a number of issues, support may exist for some aspects of the investigation but not others. Of the 475 investigations completed, 126 determined some level of support occurred, either partial or full support. Another 288 investigations concluded no government administrative error occurred which means there was no support for the complaint. Therefore, 30 percent of investigations were supported to varying degrees, and 70 percent were unsupported. The remaining 61 investigations were discontinued, which usually occurs when the government body, against whom the complaint is lodged, takes steps to resolve the issue.

An often-asked question is "How long does it take to complete an investigation?" There is no clear-cut answer. The overriding investigative emphasis is on providing a thorough and comprehensive examination of each and every complaint. Investigations are monitored to ensure they meet the rigorous quality assurance standards set by the Ombudsman. Also, the Ombudsman makes the final decision for action on every investigation. As such, he provides the final review for quality assurance. Timeliness is an integral part of the quality assurance process; however, it does not take priority over the complete analysis of all relevant facts associated with an investigation. During this reporting period, investigations were completed in an average of 179 days.

GEOGRAPHIC LOCATION OF COMPLAINTS TABLE 1



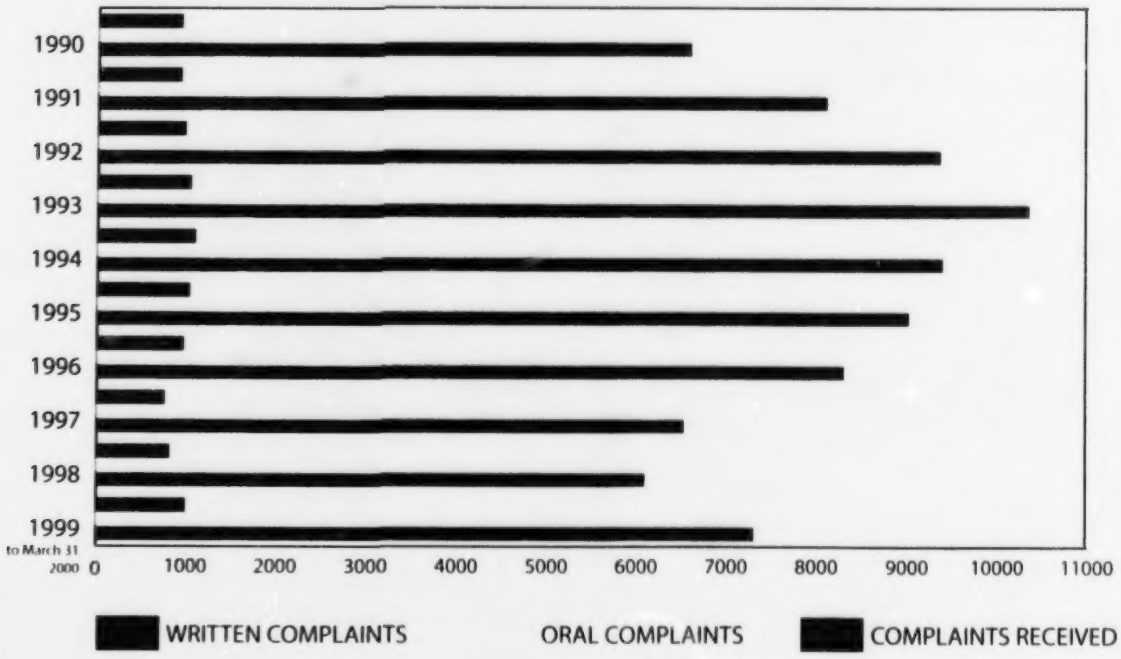
Provincial Electoral Divisions as Defined by the *Electoral Division Act*, 1996

The figures on the map refer to written complaints received between January 1, 1999 and March 31, 2000, and do not include complaints that originated in provincial correctional institutions (93) and out of province (88).

ANNUAL NUMBER OF COMPLAINTS RECEIVED BY YEAR

TABLE 2

YEAR	NUMBER OF WRITTEN COMPLAINTS	NUMBER OF ORAL COMPLAINTS	TOTAL NUMBER OF COMPLAINTS RECEIVED
1990	923	5,674	6,597
1991	916	7,187	8,103
1992	967	8,394	9,361
1993	1,030	9,319	10,349
1994	1,082	8,304	9,386
1995	1,021	7,986	9,007
1996	956	7,334	8,290
1997	748	5,771	6,519
1998	805	5,280	6,085
January 1, 1999 to March 31, 2000	983	6,314	7,297



ORAL COMPLAINTS RECEIVED TABLE 3

Oral Complaints Received
For the Period January 1, 1999 to March 31, 2000

Oral Complaints about matters that fall within the Ombudsman's jurisdiction to investigate:

Asked to Write the Ombudsman	815
Referred to Other Remedy or Authority	1,611
Information Requests	151
Informally Resolved	7
Total Jurisdictional Oral Complaints	2,584
Oral Complaints about matters that fall outside the Ombudsman's jurisdiction to investigate	3,730
Total Oral Complaints	**6,314**

Investigations are not conducted on the strength of an oral complaint. If the issue is within the jurisdiction of the Ombudsman, the caller is advised to write a letter requesting an investigation be undertaken. Once the letter is received, the issue is further analyzed to determine if it is germane to the Ombudsman's mandate. Callers who have complaints that are not within the Ombudsman's jurisdiction are advised of the appropriate contacts or steps to take to have the complaint addressed. An example of a non-jurisdictional complaint would be one against the administration of a private company.

Non Jurisdictional (3,730) 59%

Asked to Write the Ombudsman (815) 13%

Referred to Other Remedy or Authority (1,611) 26%

Information Requests (151) 2%

Informally Resolved (7) 0%

WRITTEN COMPLAINTS RECEIVED TABLE 4

Written Complaints Received
For the Period January 1, 1999 to March 31, 2000

Jurisdictional Complaints	
Formal Investigation	488
Referred to Appropriate Authority or Appeal	232
Other Resolution	8
Declined on Discretionary Grounds	29
Further Inquiries	24
No Authority to Investigate	45
Information Request	5
Total Written Jurisdictional Files	831
Non Jurisdictional Complaints	152
Total Written Complaints	**983**

Formal Investigation (488) 49%

Referred to Appropriate Authority or Appeal (232) 24%

Other Resolution (8) 1%

Declined on Descretionary Grounds (29) 3%

Further Inquiries (24) 2%

No Authority to Investigate (45) 5%

Information Request (5) 1%

Non Jurisdictional (152) 15%

WRITTEN COMPLAINTS RECEIVED

Of the jurisdictional written complaints received, 59 percent were assigned to an investigator to conduct an investigation and 41 percent were not accepted for investigation. There are a number of reasons why a written complaint may not be investigated:

Referred to Appropriate Authority or Appeal - A specific appeal of the decision or action complained about may exist elsewhere. In each case, the nature of the appeal is explained to the client, in writing, when the investigation is declined. The client is also advised that if he or she remains dissatisfied as a result of the appeal, a letter of complaint should be sent to the Ombudsman who will consider, at that time, if an investigation is appropriate.

Other Resolution - An investigation may be authorized for a formal investigation but prior to actually commencing the investigation, events or circumstances may occur to resolve the matter. This could result from a department satisfactorily resolving the issue after the letter of complaint was submitted to the Ombudsman.

Declined on Discretionary Grounds - Complaints declined on discretionary grounds by the Ombudsman include matters known to the client for more than 12 months, the subject matter of the complaint is trivial, the complaint is frivolous or vexatious or is not made in good faith, or the client does not have a sufficient personal interest in the subject matter of the complaint.

Further Inquiries – On occasion, a client does not provide sufficient information to evaluate whether or not the matter being complained about is within the Ombudsman's jurisdiction. In these instances, an investigator must conduct additional inquiries to determine the status of the complaint. This may include specific information about either the nature of the complaint or the body being complained about or available appeals. Based on the findings of the investigator, the Ombudsman is able to establish the appropriate action to pursue.

No Authority to Investigate – The matter being complained about may involve a court action, deal with legislation, or the person may not be personally affected by the actions of government.

Information Request – Some written inquiries are seeking information or clarification about matters handled by the Ombudsman or by government rather than requesting an investigation.

Investigated

OPERATIONAL STATISTICS BY DEPARTMENT,

BOARDS AND AGENCIES

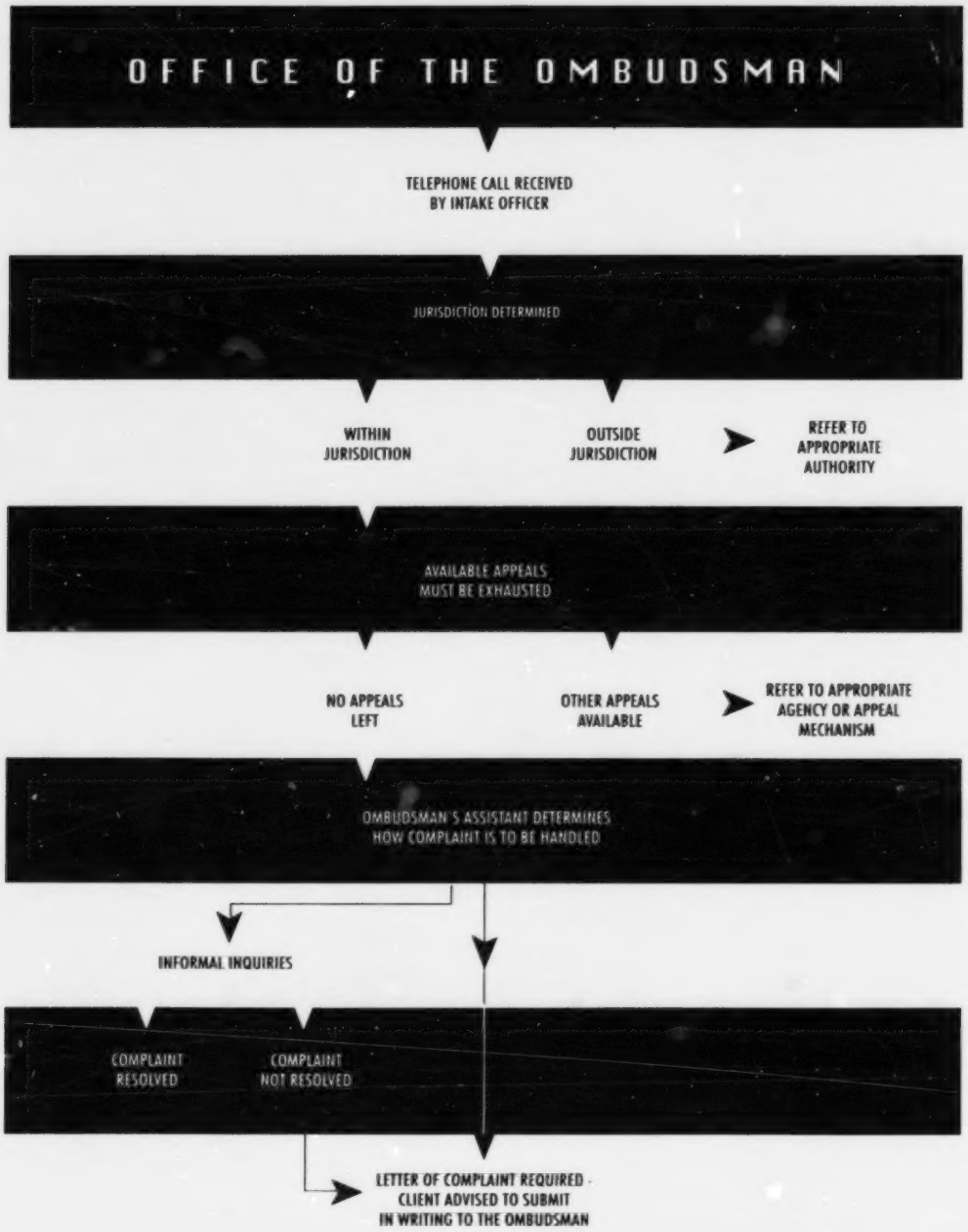
JANUARY 1, 1999 TO MARCH 31, 2000

Departments	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	SUPPORTED	PARTIAL SUPPORT	NO SUPPORT	DISCONTINUED
AGRICULTURE, FOOD & RURAL DEVELOPMENT	15	1	1	0	0	1	0
CHILDRENS SERVICES	259	77	50	3	7	36	4
COMMUNITY DEVELOPMENT	12	10	5	1	2	2	0
ECONOMIC DEVELOPMENT	0	1	0	0	0	0	0
ENVIRONMENT	40	24	7	3	1	2	1
GOVERNMENT SERVICES	17	9	6	1	1	4	0
HEALTH & WELLNESS	54	30	4	0	0	4	0
HUMAN RESOURCES & EMPLOYMENT	757	165	108	19	13	62	14
INFRASTRUCTURE	37	21	6	0	0	4	2
INNOVATION & SCIENCE	0	1	1	0	0	1	0
INTERNATIONAL & INTERGOVERNMENTAL RELATIONS	1	0	0	0	0	0	0
JUSTICE & ATTORNEY GENERAL	29	14	8	3	2	2	1
Correctional Services	504	110	78	4	16	44	14
Maintenance Enforcement Program	220	76	39	8	6	23	2
Public Trustee	9	6	3	1	0	2	0
LEARNING	59	19	4	1	0	2	1
MUNICIPAL AFFAIRS	13	7	4	0	0	2	2
RESOURCE DEVELOPMENT	1	1	3	0	0	2	1
TREASURY	13	3	1	0	0	1	0
TOTAL: Departments	**2040**	**575**	**328**	**44**	**48**	**194**	**42**
Boards & Agencies							
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION	1	1	0	0	0	0	0
ALBERTA ENERGY & UTILITIES BOARD	5	3	2	0	0	2	0
ALBERTA GAMING & LIQUOR COMMISSION	4	2	1	0	0	0	1
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	31	17	2	0	0	2	0
ALBERTA OPPORTUNITY COMPANY	1	0	0	0	0	0	0
ALBERTA PENSIONS ADMINISTRATION	9	6	1	0	0	1	0
ALBERTA RESEARCH COUNCIL	1	0	0	0	0	0	0
ALBERTA SECURITIES COMMISSION	3	1	1	0	0	1	0
ALBERTA TEACHERS' RETIREMENT FUND BOARD	0	1	1	0	0	1	0
ALBERTA TREASURY BRANCHES	22	16	5	0	2	1	2
AGRICULTURE FINANCIAL SERVICES CORPORATION	3	4	3	1	0	1	1
CRIMINAL INJURIES APPEAL BOARD	3	2	1	0	1	0	0
DRIVER CONTROL BOARD	8	1	0	0	0	0	0
ENVIRONMENTAL APPEAL BOARD OF ALBERTA	0	2	2	0	0	1	1
HEALTH FACILITIES REVIEW COMMITTEE	1	1	2	1	0	1	0
LABOUR RELATIONS BOARD	3	5	2	0	0	1	1
LAW ENFORCEMENT REVIEW BOARD	2	0	0	0	0	0	0
PERSONNEL ADMINISTRATION OFFICE	2	4	2	0	0	2	0
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATION	3	8	1	0	0	1	0
SOCIAL CARE FACILITIES REVIEW COMMITTEE	0	1	2	1	0	1	0
SURFACE RIGHTS AND COMPENSATION BOARD	0	0	1	0	0	0	1
WORKERS' COMPENSATION BOARD	390	181	118	13	15	78	12
TOTAL: Boards & Agencies	**492**	**256**	**147**	**16**	**18**	**94**	**19**
TOTAL	**2532**	**831**	**475**	**60**	**66**	**288**	**61**

Not Investigated

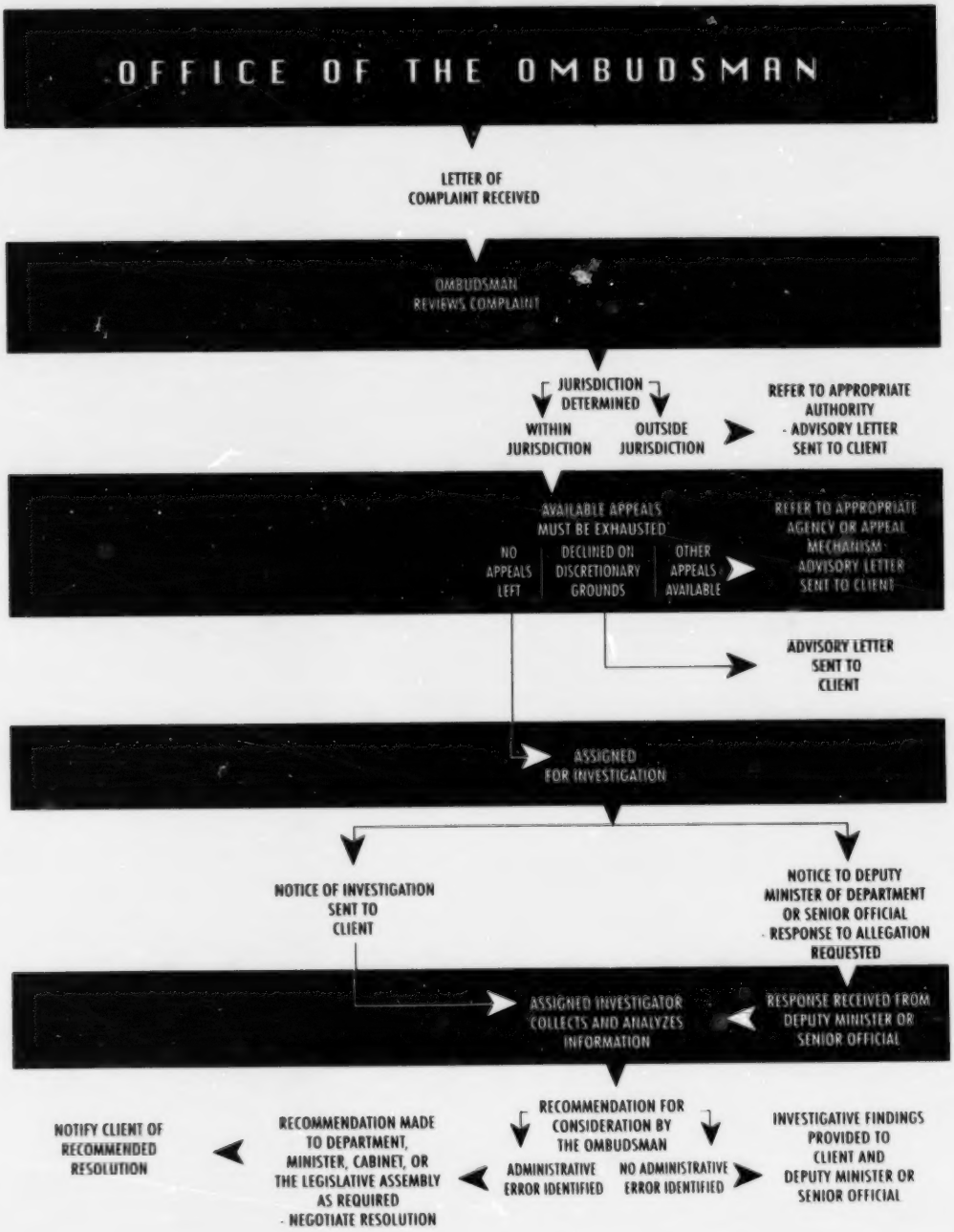
TOTAL NOT INVESTIGATED	INFORMATION REQUEST	REFERRED TO APPROPRIATE AUTHORITY OR APPEAL	OTHER RESOLUTION	NO AUTHORITY TO INVESTIGATE	DECLINED	FILES CLOSED	CARRIED FORWARD	Departments
0	0	0	0	0	0	1	1	AGRICULTURE, FOOD & RURAL DEVELOPMENT
30	1	18	0	6	5	80	14	CHILDRENS SERVICES
3	0	2	0	1	0	8	4	COMMUNITY DEVELOPMENT
1	1	0	0	0	0	1	0	ECONOMIC DEVELOPMENT
13	1	6	0	4	2	20	7	ENVIRONMENT
3	0	1	1	1	0	9	1	GOVERNMENT SERVICES
19	1	12	0	5	1	23	9	HEALTH & WELLNESS
44	4	33	2	4	1	152	47	HUMAN RESOURCES & EMPLOYMENT
14	1	7	1	4	1	20	3	INFRASTRUCTURE
0	0	0	0	0	0	1	0	INNOVATION & SCIENCE
0	0	0	0	0	0	0	0	INTERNATIONAL & INTERGOVERNMENTAL RELATIONS
9	0	4	0	5	0	17	2	JUSTICE & ATTORNEY GENERAL
35	1	23	1	4	6	113	18	Correctional Services
16	1	11	2	2	0	55	27	Maintenance Enforcement Program
3	0	2	1	0	0	6	0	Public Trustee
11	1	7	1	1	1	15	9	LEARNING
5	1	0	1	3	0	9	0	MUNICIPAL AFFAIRS
0	0	0	0	0	0	3	0	RESOURCE DEVELOPMENT
2	0	0	0	2	0	3	1	TREASURY
208	**13**	**126**	**10**	**42**	**17**	**536**	**143**	**Departments: TOTAL**
								Boards & Agencies
1	0	1	0	0	0	1	0	ALBERTA ALCOHOL & DRUG ABUSE COMMISSION
1	0	0	0	0	1	3	2	ALBERTA ENERGY & UTILITIES BOARD
1	0	1	0	0	0	2	0	ALBERTA GAMING & LIQUOR COMMISSION
13	1	10	0	1	1	15	3	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
0	0	0	0	0	0	0	0	ALBERTA OPPORTUNITY COMPANY
2	0	2	0	0	0	3	3	ALBERTA PENSIONS ADMINISTRATION
0	0	0	0	0	0	0	0	ALBERTA RESEARCH COUNCIL
0	0	0	0	0	0	1	0	ALBERTA SECURITIES COMMISSION
0	0	0	0	0	0	1	0	ALBERTA TEACHERS' RETIREMENT FUND BOARD
10	1	8	0	1	0	15	1	ALBERTA TREASURY BRANCHES
2	0	1	0	0	1	5	1	AGRICULTURE FINANCIAL SERVICES CORPORATION
1	0	1	0	0	0	2	0	CRIMINAL INJURIES APPEAL BOARD
1	0	1	0	0	0	1	0	DRIVER CONTROL BOARD
0	0	0	0	0	0	2	0	ENVIRONMENTAL APPEAL BOARD OF ALBERTA
0	0	0	0	0	0	2	0	HEALTH FACILITIES REVIEW COMMITTEE
2	0	2	0	0	0	4	2	LABOUR RELATIONS BOARD
0	0	0	0	0	0	0	0	LAW ENFORCEMENT REVIEW BOARD
1	0	1	0	0	0	3	1	PERSONNEL ADMINISTRATION OFFICE
7	1	3	0	3	0	8	0	PERSONS WITH DEVELOPMENTAL DISABILITIES BOARDS & FOUNDATION
0	0	0	0	0	0	2	0	SOCIAL CARE FACILITIES REVIEW COMMITTEE
0	0	0	0	0	0	1	0	SURFACE RIGHTS AND COMPENSATION BOARD
81	2	71	0	1	7	199	44	WORKERS' COMPENSATION BOARD
123	**5**	**102**	**0**	**6**	**10**	**270**	**57**	**Boards & Agencies: TOTAL**
331	**18**	**228**	**10**	**48**	**27**	**806**	**200**	**TOTAL**

PROCESSING ORAL COMPLAINTS


OFFICE OF THE OMBUDSMAN
TELEPHONE CALL RECEIVED BY INTAKE OFFICER
JURISDICTION DETERMINED
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY
AVAILABLE APPEALS MUST BE EXHAUSTED
NO APPEALS LEFT
OTHER APPEALS AVAILABLE
REFER TO APPROPRIATE AGENCY OR APPEAL MECHANISM
OMBUDSMAN'S ASSISTANT DETERMINES HOW COMPLAINT IS TO BE HANDLED
INFORMAL INQUIRIES
COMPLAINT RESOLVED
COMPLAINT NOT RESOLVED
LETTER OF COMPLAINT REQUIRED - CLIENT ADVISED TO SUBMIT IN WRITING TO THE OMBUDSMAN

The flow charts illustrate the typical manner in which oral and written complaints are handled by the Office of the Ombudsman. Exceptions may occur at the discretion and direction of the Ombudsman.

PROCESSING WRITTEN COMPLAINTS


OFFICE OF THE OMBUDSMAN
LETTER OF COMPLAINT RECEIVED
OMBUDSMAN REVIEWS COMPLAINT
JURISDICTION DETERMINED
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY - ADVISORY LETTER SENT TO CLIENT
AVAILABLE APPEALS MUST BE EXHAUSTED
NO APPEALS LEFT
DECLINED ON DISCRETIONARY GROUNDS
OTHER APPEALS AVAILABLE
REFER TO APPROPRIATE AGENCY OR APPEAL MECHANISM - ADVISORY LETTER SENT TO CLIENT
ADVISORY LETTER SENT TO CLIENT
ASSIGNED FOR INVESTIGATION
NOTICE OF INVESTIGATION SENT TO CLIENT
NOTICE TO DEPUTY MINISTER OF DEPARTMENT OR SENIOR OFFICIAL - RESPONSE TO ALLEGATION REQUESTED
ASSIGNED INVESTIGATOR COLLECTS AND ANALYZES INFORMATION
RESPONSE RECEIVED FROM DEPUTY MINISTER OR SENIOR OFFICIAL
RECOMMENDATION FOR CONSIDERATION BY THE OMBUDSMAN
ADMINISTRATIVE ERROR IDENTIFIED
NO ADMINISTRATIVE ERROR IDENTIFIED
INVESTIGATIVE FINDINGS PROVIDED TO CLIENT AND DEPUTY MINISTER OR SENIOR OFFICIAL
RECOMMENDATION MADE TO DEPARTMENT, MINISTER, CABINET, OR THE LEGISLATIVE ASSEMBLY AS REQUIRED - NEGOTIATE RESOLUTION
NOTIFY CLIENT OF RECOMMENDED RESOLUTION

PROCESS OF INVESTIGATION

The client was extremely pleased with the outcome and wrote the Ombudsman to state "It is amazing that the one letter to you resulted in the desired result."

The bulk of the Ombudsman's caseload occurs in response to letters of complaint from individuals affected by the actions of government. Official complaints to the Ombudsman must be made in writing. Clients must be personally affected by the administrative decisions in question. All complaints are reviewed by the Ombudsman to ensure they are within the Ombudsman's jurisdiction to investigate. Once the Ombudsman approves a complaint for investigation, the client is advised and a letter is sent informing the appropriate Deputy Minister, President or Chairman of the Ombudsman's decision to investigate. Sufficient information outlining the nature of the complaint is provided with a request for a detailed departmental response. Once a reply has been received, an Ombudsman investigator gathers additional information to enable the Ombudsman to reach a conclusion regarding the merits of the complaint.

A number of different situations can lead to the Ombudsman initiating an investigation. An "Own Motion" investigation refers to instances in which the Ombudsman, on his own initiative, decides to investigate an issue. For example, matters arising from administrative

actions affecting a large group of individuals may be handled in this manner. Another instance of an "Own Motion" investigation may occur if the Ombudsman believes a government-wide process is not being implemented consistently. Investigations can also arise as a result of a referral from a Committee of the Legislative Assembly or a Minister of the Crown.

RESOLUTION OF COMPLAINTS

If, after a thorough investigation, the Ombudsman determines the complaint is justified and the client has been unfairly disadvantaged, fair and reasonable recourse is sought. The Ombudsman presents recommendations only and does not have judicial authority to direct or enforce a specific action. Persuasive powers are effective and government ministries work hard to resolve the problem when recommendations are presented. If resolution with a department is unsuccessful, the Ombudsman may take the recommendations to the appropriate Minister. If a complaint remains unresolved at the Ministerial level, the Ombudsman has the power to present it to the Lieutenant Governor in Council (the Cabinet) and ultimately to the floor of the Legislative Assembly of Alberta. The Ombudsman may also make public any matter considered to be of public interest. Formal reports to the Lieutenant Governor in Council, the Legislative Assembly or the public are rarely, if ever, required.

If the Ombudsman determines no administrative error occurred and the actions of the government are fair and proper, an Ombudsman investigator will review the findings with the individual who lodged the complaint and explain the reasons why the complaint is not supported. Each client will have the assurance a thorough, independent and impartial investigation has taken place.

CASE SUMMARIES

AISH overpayment

A complaint was received that the Ministry of Human Resources and Employment (formerly Family and Social Services), Assured Income for the Severely Handicapped unfairly assessed an overpayment.

The clients appeared before an Appeal Panel to dispute an overpayment. They were told the panel did not have the jurisdiction to hear the matter as the 30-day time limit to file an appeal had expired.

The Ombudsman's investigation determined the Ministry had not obtained some relevant information from the clients. As a result of this new information, the overpayment was recalculated and the clients were allowed to appeal the recalculation.

Employee complaint

A provincial government employee wrote to complain about being unfairly denied a Separation Payment for Restructuring (SPR) and a compassionate transfer.

The Ombudsman found the Ministry did not err administratively by denying the SPR package on the basis of operational needs. There was no evidence to suggest the position could be abolished or otherwise accommodated in the Ministry's staffing plan. However, the process by which the Ministry handled the request was administratively unfair. The Ministry erred when it failed to allow the client to appeal the request to the Deputy Minister.

The Ombudsman also found there was no evidence to support the allegation the client was wrongfully denied a compassionate transfer. The Ministry did err administratively when it failed to provide the client with a written response to the request. The client was not provided with reasons why the transfer could not be considered.

The Ministry accepted the Ombudsman's recommendations. Policies were developed which addressed the issues and rights of appeal to the Deputy Minister with a commitment that employees would be informed of this right if their request was denied.

Compensation for delay

The client was an equal partner of a registry business when the partners decided to dissolve the partnership. At that time, the client wrote to Alberta Registries requesting approval to buy out the other partner and take over sole ownership of the business. Registries did not give the client a definitive answer for six months. By that time, the client had taken steps to buy out the partner.

Notification that the client would not be accepted as a sole owner of a Registry was delayed. Because of this delay, the Ombudsman concluded the client was unfairly disadvantaged when entering into contract negotiations with the partner. This

administrative error caused the client and former partner to adjust an agreed-upon contract which resulted in a possible loss of several thousand dollars to the client.

The Ombudsman recommended the Ministry negotiate compensation for the client. The Ministry accepted the recommendation and negotiations were undertaken. The negotiations broke down when the client requested an amount the Ministry and the Ombudsman considered unreasonable.

Overpayment calculation error

The client wrote the Ombudsman complaining the Ministry of Human Resources and Employment (the Ministry), Assured Income for the Severely Handicapped (AISH) unfairly calculated an overpayment of benefits from the retroactive Canada Pension Plan disability benefits received by the client.

The investigation determined the Ministry correctly assessed the overpayment of benefits. However, a 10 percent reduction, in the amount of the overpayment for income tax purposes, was not applied in accordance with policy. As a result of this investigation, the overpayment was re-calculated and reduced by 10 percent.

A further issue arose over the wording of Declaration 6 on the Ministry's Application for Financial Benefits form. The Ombudsman observed the wording restricted the discretion of the Director as established in the *Assured Income for the Severely Handicapped Act* and the *Social Development Act.* Declaration 6 stated the Ministry will always collect any overpayment which is due to an administrative error without regard to individual circumstances. The Ombudsman recommended the wording be changed to more accurately reflect the intent of legislation.

The Ministry accepted the Ombudsman's recommendation and the wording of Declaration 6 is being changed to give the Ministry the flexibility it requires to determine which benefits, issued in error, will be collected. The Ministry also agreed to change similar wording that appears on the AISH Asset Report form.

WCB awards

A worker complained about the Workers' Compensation Board's decisions on four different claim files. The complaints included the size of a Permanent Partial Disability (PPD) award for two of the injuries and also a denial of PPD awards for two other injuries.

The client had undergone numerous medical assessments for all of the reported injuries. The investigation determined there was inadequate medical evidence to support any of the worker's complaints that the WCB awards were unfair. As there was no administrative or procedural errors identified, the Ombudsman was not able to support this complaint.

Consecutive or concurrent sentences

An inmate complained of being required to spend two fourteen-day sentences in disciplinary segregation on a consecutive basis, rather than a concurrent basis. The inmate claimed the disciplinary hearing had determined the sentences were to be concurrent.

The investigation included a review of the tape recording of the disciplinary hearing proceedings. The tape indicated the two sentences the client received were to be served consecutively.

As there was no administrative or procedural errors identified, the Ombudsman was not able to support the complaint.

Seniors benefits

A senior citizen wrote complaining of a lack of action by the Ministry of Community Development, Senior's Division regarding a senior benefit application for special needs assistance and a request for an appeal.

The Ombudsman's investigation determined the client had cancelled and not rescheduled an Appeal Hearing with the Citizen's Appeal Panel. As such, the client still had the right of appeal. The Ombudsman's investigation was discontinued as the *Ombudsman Act* states all avenues of appeal must be used before the Ombudsman can commence an investigation.

Dental claim

A provincial government employee complained of an improper employment termination date. This resulted in rejection of a valid dental claim and improper billing for health care premiums.

After commencing the investigation, the Ombudsman was notified by the client that the last payment on the dental claim had been received. The matter had been concluded satisfactorily. The Ombudsman's investigation was discontinued as the Ministry resolved this matter upon receiving written notification of this complaint.

Special diet

An inmate in an Alberta Correctional Centre complained of being unfairly denied a vegetarian diet while incarcerated. The client was seen by the Centre's physician and requested a vegetarian diet.

The physician denied the request. The physician was of the opinion, confirmed through the investigator's discussions with the client, the vegetarian diet was a personal preference, and not a medical requirement.

The Correctional Services Policy states all special diets, including vegetarian diets, are to be ordered by a health care professional. This is to ensure diets are only provided to those who require them for medical reasons.

There was no evidence of administrative or procedural error in this case and the Ombudsman was unable to support the complaint.

Vocational school

An individual alleged Alberta Advanced Education & Career Development (now Alberta Learning), poorly handled a complaint made against a private vocational school. The Ministry's investigation resulted in a partial refund of tuition fees but did not address all the issues raised by the client.

The Ombudsman's investigation resulted in a more thorough investigation by the Ministry, with a detailed letter sent to the client addressing each of the concerns, and the establishment of a new process for the handling of complaints made by students against institutions licensed under the *Private Vocational School Act and Regulation.*

Foster home approval

The client contacted the Ombudsman to complain that after several years of service, their approval to operate a foster home was unfairly withdrawn by the Ministry of Children's Services.

The Ombudsman's investigation determined the Ministry had a long history of concerns with the clients' foster home and appropriately instituted an investigation in accordance with legislation and policy. The investigation was conducted by an employee with the Ministry who had no prior contact or involvement with the clients. The investigation was thorough and its recommendations were appropriate to the evidence gathered. The Child Welfare Appeal Panel subsequently conducted a lengthy and

thorough hearing. Its proceedings were administratively fair and the Ministry's decision was upheld. Since there were no administrative or procedural errors identified, the Ombudsman was unable to support the complaint.

Employee pension

A letter of complaint was received from a former Alberta government employee alleging no advice was provided regarding the purchase of prior pensionable service and no counseling was provided at the time the position was abolished.

The investigation determined the client commenced employment as a wage employee and was later elevated to a "superwage" status. Superwage employees are eligible for a number of benefits including participating in the pension plan. The employee was advised the time spent as a straight wage employee could be purchased as prior service; however, the employee did not pursue the option at that time. The employee remained as a superwage employee for almost five years until the Ministry underwent significant downsizing and the employee's position was abolished. Along with termination notice, the employee was given an information package outlining the options for the pension plan and a final opportunity to purchase prior pensionable service.

To be eligible for a pension, an employee requires five years of paid pensionable service. Without purchasing any of the straight wage time, this employee was one month short of the necessary time to receive a pension.

The required pension form for terminated employees could not be found on the employee's personnel file. Also, the portion of the employee termination checklist, related to pension choices, was incomplete. This omission, which constituted an administrative error, was pointed out to the Ministry contact by the investigator. Without waiting for a formal recommendation from the Ombudsman's office, the Ministry took immediate action to resolve the situation. The Ombudsman discontinued the investigation as the Ministry took steps to ensure the former employee was treated in a fair and responsible manner. The Ministry is to be commended for its compassionate treatment of its former employee. The client was extremely pleased with the outcome and wrote the Ombudsman to state "It is amazing that the one letter to you resulted in the desired result."

Overtime payment

An employee of Alberta Treasury Branches (ATB) complained about a decision by ATB to refuse to pay overtime wages and interest on a retirement package.

ATB approved a Voluntary Early Retirement (VER) program for staff 50 years of age and older with a minimum of 2 continuous years of employment. The client applied for and received approval for a VER. To receive a VER, an employee must sign a general release form discharging the ATB of any future claims.

The client did not sign the release. It was felt overtime pay was still owed for hours worked and if signed, the client would forfeit the right to further claims against the ATB.

Inquiries confirmed the client had worked more than 90 overtime hours but these hours were never authorized by management, which is a condition of the Collective Agreement. No one witnessed or verified the overtime hours. The client had been advised by management, in writing, there would be no pay for overtime because it had not been approved. The client continued to work overtime without authorization.

The Ombudsman could not support this portion of the complaint because the client had not been authorized to work overtime. He did recommend the client be paid interest on the lump sum retirement allowance as the ATB had access to these funds for approximately one year. ATB agreed to his recommendation on the condition the client sign the general release.

The client signed the release, received the retirement package with interest and was satisfied with the results of the investigation.